



LOBBYING AND LITIGATION CERTIFICATION FOR GRANTS AND COOPERATIVE AGREEMENTS*

INSTRUCTIONS:

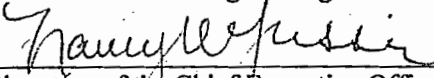
*At project completion, complete this form pursuant to the 2001 Department of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Act, Public Law 106-377, Section 424 and 2000 Department of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Act, Public Law 106-74, Section 426 and any other subsequent Appropriation Act requirements.

Please mail this form to your EPA Grant Specialist within 90 days of project completion. DO NOT send this information to the Office of Management & Budget.

Assistance Agreement Number(s):

CS36000111

I hereby certify that none of these funds have been used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.


Signature of the Chief Executive Officer

11/25/13
Date

Nancy W. Lussier

Print Name

Burden Statement - The annual public reporting and record keeping burden for this collection of information is estimated to average 5 minutes per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Regulatory Information Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Mail Code 3213A, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number and OMB control number in any correspondence.

New York State Department of Environmental Conservation
Division of Management & Budget Services
Federal Accounting Unit, 10th Floor
625 Broadway, Albany, New York 12233-1010
Phone: (518) 402-9342 **Fax:** (518) 402-9023
Website: www.dec.state.ny.us



Alexander B. Grannis
Commissioner

YVETTE
LOG # 116

Ms. Judith Enck
Regional Administrator
U.S. Environmental Protection Agency
Region II Office
290 Broadway
New York, New York 10007-1866

SEP 29 2010

Attention: Mr. Roch Baamonde, Chief
Grants & Contracts Management Branch

Re: New York Clean Water State Revolving Fund
Capitalization Grant for 2011

Dear Ms. Enck:

Enclosed for your review and approval is an application for a Capitalization Grant for New York's Clean Water State Revolving Fund (CWSRF) Program that includes both the FFY 2011 allocation and the deobligated Construction Grants Program funds available pursuant to the August 26, 2010 EPA memo from Catherine Vass to Donna Vizian (attached).

This application requests the following funding:

FFY 2011 CWSRF funds	\$211,640,622
Deobligated Const. Grants	\$74,993,847
Unliquidated Obligations (CG)	\$7,435,590
Total	\$294,070,059

not available for obligation

286,634,469

These funds will be used to provide low interest financings to eligible recipients for water quality protection projects.

The State and USEPA are partners in assisting New York's communities and not-for-profit organizations in preventing or abating water pollution problems. The continued cooperation that has been evidenced in the past will help assure the continued success of our mutual efforts.

We appreciate your efforts to review and award this grant application in a timely manner. If you have any questions about this application, call Bill Brizzell or David Bradley of the NYS Environmental Facilities Corporation (EFC) at 518-402-7396.

Sincerely,

Nancy W. Lussier
Director of Management and Budget

211,640,622

Enclosures: a/s

c: Mr. Andrews, USEPA - Region II
Mr. Vida, USEPA - Region II

**NEW YORK STATE
CLEAN WATER STATE REVOLVING FUND
FEDERAL FISCAL YEAR 2011
CAPITALIZATION GRANT APPLICATION**

SEPTEMBER 30, 2010

**PREPARED FOR:
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION II OFFICE
OFFICE OF POLICY AND MANAGEMENT
GRANTS AND CONTRACTS MANAGEMENT BRANCH
290 BROADWAY, 27TH FLOOR
NEW YORK, NEW YORK 10007-1866**

SUBMITTED BY:



STATE OF NEW YORK



**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
Alexander B. Grannis, Commissioner**



**ENVIRONMENTAL FACILITIES CORPORATION
Matthew J. Driscoll, President and CEO**

**NEW YORK STATE CLEAN WATER STATE REVOLVING FUND
FEDERAL FFY 2011 CAPITALIZATION GRANT
CONTENTS**

Federal Capitalization Grant Application Required Forms

- Key Contacts Form (EPA Form 5700-54 and Additional Key Contacts)
- Application for Federal Assistance (SF-424) with original signature (including SF-424A Budget Information and Assurances for Non-Construction Programs (SF-424B).
- Pre-award Compliance Review Report (EPA Form 4700-4)
- Clearinghouse Coordination: Evidence of Compliance with Intergovernmental Review (State Agency Notice of Prospective Application for Federal Aid)
- Lobbying and Litigation Certification For Grants and Cooperative Agreements (EPA Form 5700-53)
- Method of Payment

Source of State Match

Attorney General's Certification

Completed Checklist of Application Items to be Submitted

Memo from Catherine Vass to Donna Vizian dated August 26, 2010

Submitted under separate cover

- FFY 2011 Intended Use Plan (IUP) – Will be sent under separate cover
- Operating Agreement - No changes are proposed for the current approved Operating Agreement effective through December 31, 2014
- MBE/WBE Utilization under Federal Grants, etc. (EPA form 5700-52A) – Submitted under separate cover quarterly as required

FEDERAL CAPITALIZATION GRANT APPLICATION

REQUIRED FORMS



KEY CONTACTS FORM

Authorized Representative: *Original awards and amendments will be sent to this individual for review and acceptance, unless otherwise indicated.*

Name: Nancy Lussier

Title: Director of Management & Budget

Complete Address: NYS Department of Environmental Conservation, Division of Management & Budget
10th Floor, 625 Broadway, Albany, New York 12233

Phone Number: 518-402-9228

Payee: *Individual authorized to accept payments.*

Name: Michael Giovannone

Title: Associate Accountant

Mail Address: NYS Department of Environmental Conservation
625 Broadway, Albany, New York 12233

Phone Number: 518-402-9376

Administrative Contact: *Individual from Sponsored Program Office to contact concerning administrative matters (i.e., indirect cost rate computation, rebudgeting requests etc.)*

Name: Michael Malinoski

Title: Controller & Director of Corporate Operations

Mailing Address: NYS Environmental Facilities Corporation
625 Broadway, Albany, New York 12207-2997

Phone Number: 518-486-9267

FAX Number: 518-486-9233

E-Mail Address: malinoski@nysefc.org

Principal Investigator: *Individual responsible for the technical completion of the proposed work.*

Name: Timothy P. Burns, P.E.

Title: Director of Engineering & Program Management

Mailing Address: NYS Environmental Facilities Corporation
625 Broadway, Albany, New York 12207-2997

Phone Number: 518-402-7396

FAX Number: 518-402-7456

E-Mail Address: burns@nysefc.org

Web URL:



ADDITIONAL KEY CONTACTS

(Use as many sheets as needed.)

Major Co-Investigators: *Individual responsible for the completion of major portions of the proposed work.*

Name: William A. Brizzell, Jr., P.E.

Title: Program Manager of Technical Support Section

Mailing Address: NYS Environmental Facilities Corporation
625 Broadway, Albany, New York 12207-2997

Phone Number: 518-402-7396

FAX Number: 518-402-7456

E-Mail Address: brizzell@nysefc.org

Web URL: www.nysefc.org

Major Co-Investigators: *Individual responsible for the completion of major portions of the proposed work.*

Name: Kai Earle

Title: M/WBE Manager

Mailing Address: NYS Environmental Facilities Corporation
625 Broadway, Albany, New York 12207-2997

Phone Number: 518-402-7396

FAX Number: 518-402-7456

E-Mail Address: earle@nysefc.org

Web URL:

Major Co-Investigators: *Individual responsible for the completion of major portions of the proposed work.*

Name:

Title:

Mailing Address:

Phone Number:

FAX Number:

E-Mail Address:

Web URL:

Application for Federal Assistance SF-424

Version 02

*1. Type of Submission	*2. Type of Application	*If Revision, select appropriate letter(s):
<input type="checkbox"/> Preapplication	<input type="checkbox"/> New	
<input checked="" type="checkbox"/> Application	<input checked="" type="checkbox"/> Continuation	* Other (Specify)
<input type="checkbox"/> Changed/Corrected Application	<input type="checkbox"/> Revision	

*3. Date Received: 4. Application Identifier:

5a. Federal Entity Identifier:	*5b. Federal Award Identifier:

State Use Only:

6. Date Received by State: 7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name: NYS Department of Environmental Conservation

* b. Employer/Taxpayer Identification Number (EIN/TIN): 14-6013200	*c. Organizational DUNS: 806780912
---	---------------------------------------

d. Address:

*Street1: 625 Broadway
Street 2:
*City: Albany
County: Albany
*State: New York
Province:
Country: United States *Zip/ Postal Code: 12233-5022

e. Organizational Unit:

Department Name: NYS Department of Environmental Conservation	Division Name: Water
--	-------------------------

f. Name and contact information of person to be contacted on matters involving this application:

Prefix: Mr. First Name: Timothy
Middle Name: P.
*Last Name: Burns
Suffix: P.E.

Title: Director of Engineering and Program Management

Organizational Affiliation:

NYS Environmental Facilities Corporation

*Telephone Number: 518-402-7396 Fax Number: 518-402-7456

*Email: Burns@nysefc.org

Application for Federal Assistance SF-424

Version 02

9. Type of Applicant 1: Select Applicant Type: A. State Government



Type of Applicant 2: Select Applicant Type:

- Select One -



Type of Applicant 3: Select Applicant Type:

- Select One -



*Other (specify):

*10. Name of Federal Agency:

United States Environmental Protection Agency - Region II

11. Catalog of Federal Domestic Assistance Number:

66-458

CFDA Title:

Capitalization Grant for Clean Water State Revolving Fund

*12. Funding Opportunity Number:

*Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Statewide

*15. Descriptive Title of Applicant's Project:

Capitalization Grant to provide funds for the New York State Clean Water State Revolving Fund Program established pursuant to Title VI of the Clean Water Act. This application also includes "no year" funds as explained in the attached EPA memo from Catherine Vass to Donna Vizian dated August 26, 2010.

Attach supporting documents as specified in agency instructions.

Application for Federal Assistance SF-424

Version 02

16. Congressional Districts Of:

*a. Applicant
New York State

*b. Program/Project:
New York State

Attach an additional list of Program/Project Congressional Districts if needed.

17. Proposed Project:

*a. Start Date: 10/1/2010

*b. End Date: 9/30/2015

18. Estimated Funding (\$):

*a. Federal \$294,070,059.00

*b. Applicant

*c. State \$58,814,011.00

*d. Local

*e. Other

*f. Program Income

*g. TOTAL \$352,884,070.00

*19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- ☒ a. This application was made available to the State under the Executive Order 12372 Process for review on 8/19/10
☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
☐ c. Program is not covered by E.O. 12372

*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)

☐ Yes ☒ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)

☒ **I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Ms.

*First Name: Nancy

Middle Name: W.

*Last Name: Lussier

Suffix:

*Title: Director of Management and Budget

*Telephone Number: 518-402-9237

Fax Number: 518-402-9230

*Email: nwlussie@gw.dec.state.ny.us

*Signature of Authorized Representative

Date Signed:

SEP 29 2010

Application for Federal Assistance SF-424

Version 02

*Applicant Federal Debt Delinquency Explanation

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

BUDGET INFORMATION - Non-Construction Programs

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. CWSRF-2011	66.458	\$	\$	\$ 203,174,997	\$ 42,328,124	\$ 245,503,121
2. Admin-2011				\$8,465,625		\$8,465,625
3. CWSRF - CG	66.458			\$79,132,260	16,485,887	\$95,618,147
4. Admin - CG				\$3,297,177		\$3,297,177
5. Totals		\$	\$	\$294,070,059	\$58,814,011	\$352,884,070
SECTION B - BUDGET CATEGORIES						
6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)	
	(1)	(2)	(3)	(4)		
a. Personnel						
b. Fringe Benefits						
c. Travel						
d. Equipment						
e. Supplies						
f. Contractual						
g. Construction						
h. Other	\$352,884,070				\$352,884,070	
i. Total Direct Charges (sum of 6a-6h)	\$352,884,070				\$352,884,070	
j. Indirect Charges						
k. TOTALS (sum of 6i and 6j)	\$352,884,070	\$	\$	\$	\$352,884,070	
7. Program Income	\$	\$	\$	\$	\$	

Authorized for Local Reproduction

Previous Edition Usable

Standard Form 424A (Rev 4-2012)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8. CWSRF		\$42,328,124		\$42,328,124	
9. CWSRF - deobligated Const Grants funds		16,485,887		\$16,485,887	
10.				\$	
11.				\$	
12. Total (SUM OF LINES 8-11)		\$58,814,011		\$58,814,011	
SECTION D - FORECASTED CASH NEEDS					
13. Federal	Total for 1 st Year	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
	\$294,070,059	\$	\$	\$294,070,059	\$
14. Non-Federal	\$58,814,011			\$58,814,011	
15. TOTAL (sum of lines 13 and 14)	\$352,884,070	\$	\$	\$352,884,070	\$
SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT					
(a) Grant Program	FUTURE FUNDING PERIODS (years)				
	(b) First	(c) Second	(d) Third	(e) Fourth	
16.	\$	\$	\$	\$	
17.					
18.					
19.					
20. TOTAL (sum of lines 16-19)	\$	\$	\$	\$	
SECTION F - OTHER BUDGET INFORMATION					
21. Direct Charges:		22. Indirect Charges:			
23. Remarks:					

Authorized for Local Reproduction

**CLEAN WATER STATE REVOLVING FUND PROGRAM
FFY 2011 ADMINISTRATION BUDGET**

Grant Funds 4% Administration

FFY 2011 grant 8,465,625

<u>FFY 2010 Projected Expenses Category</u>	<u>Total Eligible Administration</u>	<u>Total Fundable Eligible Administration Cost</u>
Personal Service	5,011,000	
Fringe Benefits (44.09%)	2,209,000	
Travel	42,000	
Equipment	73,000	
Supplies & Materials	84,000	
Contractual Services	51,200	
Other Budget	88,100	
Total Direct Expenses	7,558,300	
Indirect Costs (8.14%)	588,000	
Total Expenses	8,146,300	8,465,625

CWSRF FFY11 BREAKDOWN OF ADMIN. PS and NPS EXPENSES

Personal Service Costs:

See attached list 5,011,000

Fringe benefits (44.09%)

2,209,000

Consists of Health insurance, Social Security,
Pensions, Worker's Compensation, Dental
Insurance, Unemployment Insurance,
Vision Benefits, Medicare, Long Term Disability

NPS EXPENSES

Travel

42,000

The Corporation's responsibilities with the Program
will have staff travel to IUP hearings, application
workshops and bond pricing and closings in New York City
for CWSRF bond issues

Equipment

73,000

Computer hardware such as servers (\$2,500 - \$5,000),
CPU's, monitors, back up systems, security appliance for
computer, Storage Area Network (SAN) (\$7,350 - \$17,150), 57,500
printer, copiers, etc.

Office peripherals such as fax machines,
file cabinets, desks and chairs, etc. 15,500

Supplies & Materials

84,000

Office supplies, Computer software, hardware & maintenance

Breakdown of supplies & materials:

Computer software and supplies: toner cartridges, color printer
supplies; software purchase: content management/workflow
(\$24,500 - \$50,000) security software, software updates,
maintenance, etc. 68,700

General office supplies: pens, pencils, copier paper
folders, calendars, calculators, etc. 15,300

CWSRF FFY11 BREAKDOWN OF ADMIN. PS and NPS EXPENSES

Contractual Services		51,200
Consultants		
Other Budget		88,100
Printing of the CWSRF IUP, training, temporary services if needed, insurance, postage, telephone & misc.:		
Printing	8,000	
Training (On going contract): The nature of training would consist of Computer Training, CIFA and Tuition Assistance Program	16,900	
Temporary Services	0	
Insurance: CW share of Auto insurance, computer, Liability and Property insurance	8,900	
Postage	9,800	
Telephone	25,200	
Misc.: Subscriptions, books, journals and any other unforeseen program costs.	19,300	
Indirect costs (8.14%)		588,000
Grand Total		8,146,300

Note: All items anticipated to be purchased in FFY2011 with a cost over \$5,000 are listed within the Administrative Budget. Prior approval from EPA will be obtained before the purchase of each and every item that has a cost of \$5,000 or more.

ASSURANCES – NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET.
SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

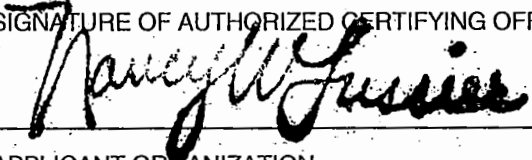
1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of the project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 795), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provision of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a-7), the

Copeland Act (40 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

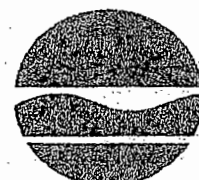
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplain in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential

components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Director of Management and Budget
APPLICANT ORGANIZATION New York State Department of Environmental Conservation	DATE SUBMITTED SEP 29 2010

New York State Department of Environmental Conservation
Division of Management & Budget Services
Federal Accounting Unit, 10th Floor
625 Broadway, Albany, New York 12233-5022
Phone: (518) 402-9342 • FAX: (518) 402-9023
Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

November 5, 2009

Mr. Roch C. Baamonde, Chief
Grants and Contracts Management Branch
U.S. Environmental Protection Agency
Region II
290 Broadway, 29th Floor
New York, NY 10007-1866

Dear Mr. Baamonde,

Attached for your information and review is our required submittal of Civil Rights form 4700-4, "Preaward Compliance Review Report for All Applicants Requesting Federal Financial Assistance". This submittal is intended to cover each one of the Department grants, for all monetary actions occurring on or after October 1, 2009.

We have made every effort to obtain answers to each of the questions in the form. However, we are not able to provide you with answers to question numbers VI and VII. These grants are generally used to support Department programs that serve all of New York State, rather than a single specific geographic location and/or population. Consequently, questions that deal with a specific community or population are impossible to answer because the Department lacks access to that type of information on a statewide basis.

If you need any additional information on this matter, please contact Michael Giovannone by phone at (518) 402-9376 or e-mail at mxgiovan@gw.dec.state.ny.us.

Sincerely,

Nancy W. Lussier
Director, Management & Budget Services

Enclosure

**United States Environmental Protection Agency
Washington, DC 20460**

**Preaward Compliance Review Report for
All Applicants and Recipients Requesting EPA Financial Assistance**

Note: Read instructions on other side before completing form.

I.	Applicant/Recipient (Name, Address, State, Zip Code): New York State Department of Environmental Conservation, 625 Broadway, Albany New York 12233	EPA Project No.
II.	Is the applicant currently receiving EPA assistance? (See * instructions on reverse side) Yes	
III.	List all civil rights lawsuits and administrative complaints pending against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.) Four (4) cases pending NYSDHR decision. No determination at this time.	
IV.	List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that allege discrimination based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective action taken. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.) [REDACTED]	
V.	List all civil rights complaints and reviews of the applicant/recipient conducted by any agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3)) None	
VI.*	Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its programs or activities? (40 C.F.R. § 5.140 and § 7.95) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No a. Do the methods of notice accommodate those with impaired vision or hearing? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No b. Is the notice posted in a prominent place in the applicant's offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No c. Does the notice identify a designated civil rights coordinator? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
VII.*	Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or handicap of the population it serves? (40 C.F.R. § 7.85(a)) Yes	
VIII.*	Does the applicant/recipient have a policy/procedure for providing access to services for persons with limited English proficiency? (40 C.F.R. Part 7, E.O. 13166) Yes	
IX.*	If the applicant/recipient is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator. N/A	
X*	If the applicant/recipient is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or Internet address for, or a copy of, the procedures. N/A	
XI.	Will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? <input checked="" type="checkbox"/> Yes. If no, explain how a regulatory exception (40 C.F.R. § 7.70) applies. <input type="checkbox"/> No	

For the Applicant/Recipient

I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations.

A. Signature of Authorized Official

B. Title of Authorized Official

C. Date

Director, Management & Budget Services

11/5/09

For the U.S. Environmental Protection Agency

I have reviewed the information provided by the applicant/recipient and hereby certify that the applicant/recipient has submitted all information required by 40 C.F.R. Parts 5 and 7; that based on the information submitted, this application satisfies 40 C.F.R. Parts 5 and 7; and that the applicant has given assurance that it will fully comply with all applicable civil rights statutes and EPA regulations.

A. Signature of Authorized EPA Official

B. Title of Authorized EPA Official

C. Date

Clearinghouse Letters

Attached are the following:

- List of Clearinghouse contacts who were contacted regarding the 2011 CWSRF Capitalization Grant.
- Sample letter from Michael Giovannone of NYSDEC dated **August 19, 2010**.
- NYS Certification of Distribution of Application Review Package

Note that the comments/responses to the intergovernmental review process were directed to USEPA.

ADDRESSES
NY State Reviewing Agencies

<p>ALBANY, RENSSELAER, SCHENECTADY, SARATOGA</p> <p>Mr. Rocco A. Ferraro 1 Park Place Suite 102 Albany, NY 12205 Tel. (518) 453-0850 Fax (518) 453-0856 Email: Rocky@cdrpc.org *Will accept electronic project proposals</p>	<p>BROOME, CHENANGO, CORTLAND, DELAWARE, OTSEGO, SCHOHARIE, TIOGA, TOMPKINS</p> <p>Mr. Robert Augenstern Southern Tier East Planning Board 375 State St. Binghamton, NY 13901-2385 Tel. (607)724-1327 Fax (607)724-1194. Email: raugen@steny.org *Will <u>not</u> accept electronic project proposals</p>
<p>CHAUTAUQUA, CATTARAUGUS, ALLEGANY</p> <p>Mr. Brian Schrantz Southern Tier West RPB 4039 Route 219, Suite 200 Salamanca, NY 14779-9625 Tel. (716) 945-5301 Email: Bschrantz@southerntierwest.org *Will accept electronic project proposals</p>	<p>CHEMUNG, SCHUYLER, STEUBEN</p> <p>Ms. Marcia Weber Southern Tier Central Regional Planning Bd. 8 Denison Parkway East, Suite 310 Corning, NY 14830 Tel. (607)962-5092 Fax (607)962-3400</p>
<p>COLUMBIA</p> <p>Waive right to review all proposed projects</p>	<p>DUTCHESS</p> <p>Waive right to review all proposed projects</p>
<p>ERIE, NIAGARA</p> <p>Waive right to review all proposed projects</p>	<p>FRANKLIN</p> <p>Mr. Brad Jackson, Executive Director Franklin County Industrial Development Agency 10 Elm Street, Suite 2 Malone, NY 12953-1543 Tel. (518) 483-9472 Fax (518) 483-2900 Email: bjackson@franklinida.org *Will accept electronic project proposals *Only reviewing proposals that are specific to Franklin County.</p>

<p>FULTON</p> <p>Waive right to review all proposed projects</p>	<p>GENESSE, LIVINGSTON, MONROE, ONTARIO, ORLEANS, SENECA, WAYNE, YATES, WYOMING</p> <p>Ms. Rudeen Armstrong Genesee/FingerLakes Regional Planning Cncl. City Place, 50 West Main Street, Suite 8107 Rochester, NY 14614 Tel. (585) 454-0190 Fax (585) 454-0191 *Will <u>not</u> accept electronic project proposals</p>
<p>GREENE</p> <p>Waive right to review all proposed projects</p>	<p>JEFFERSON</p> <p>Mr. Bruce Armstrong Jefferson County Planning Dept. 175 Arsenal St. Watertown, NY 13601 Tel. (315)785-3144 Fax (315)785-5092 Email: donc@co.jefferson.ny.us BruceA@co.jefferson.ny.us *Will accept electronic project proposals</p>
<p>LEWIS</p> <p>Waive right to review all proposed projects</p>	<p>MONTGOMERY</p> <p>Waive right to review all proposed projects</p>
<p>NASSAU</p> <p>Waive right to review all proposed projects</p>	<p>NEW YORK CITY and NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION</p> <p>Waive right to review all proposed projects</p>
<p>ORANGE</p> <p>Mr. David Church Orange County Planning Dept. 124 Main St. Goshen, NY 10924 Tel. (845) 291-2318 Fax (845) 291-2533</p>	<p>OSWEGO, ONONDAGA, MADISON, CAYUGA</p> <p>Ms. Carol Faucher or David Bottar Central New York Regional Planning Board 126 N. Salina Street Syracuse, NY 13202-1050 Tel. (315)422-8276 Fax (315)422-9051 Email: mail@cnyrpd.org *Will <u>not</u> accept electronic project proposals</p>

<p>PUTNAM</p> <p>Waive right to review all proposed projects</p>	<p>ROCKLAND</p> <p>Ms. Arlene Miller Rockland County Department of Planning Robert Yeager Health Center, Building T 50 Sanatorium Road Pomona, NY 10970 Tel. (845) 364-3434 Fax (914) 638-5686 Email: <u>Millera@co.rockland.ny.us</u> *Will accept electronic project proposals</p>
<p>ST. LAWRENCE</p> <p>Waive right to review all proposed projects</p>	<p>SUFFOLK</p> <p>Waive right to review all proposed projects</p>
<p>SULLIVAN</p> <p>Waive right to review all proposed projects</p>	<p>ULSTER</p> <p>Mr. Dennis Doyle Ulster County Planning Board Box 1800 244 Fair St. Kingston, NY 12401 Tel. (845) 340-3339 Fax (845) 340-3429 Email: <u>planning@co.ulster.ny.us</u></p>
<p>WESTCHESTER</p> <p>Mr. Jerry Mulligan Commissioner of Planning Westchester County Department of Planning 148 Martine Avenue, Room 432 White Plains, NY 10601-4704 Tel. (914) 995-4402 Email: <u>Jem1@westchester.gov.com</u> and Mr. Edward Buroughs, Deputy Commissioner same address as above Tel. (914) 995-4405 Email: <u>EEB6@westchester.gov.com</u> *Will accept electronic project proposals *Only reviewing proposals with a threshold of \$200,000.</p>	<p>HERKIMER, ONEIDA</p> <p>Waive right to review all proposed projects</p> <p>CLINTON, ESSEX, HAMILTON, WARREN, WASHINGTON</p> <p>Waive right to review all proposed projects</p>

New York State Department of Environmental Conservation

Division of Management & Budget, 10th Floor

625 Broadway, Albany, New York 12233-5010

Phone: (518) 402-9342 • Fax: (518) 402-9023

Website: www.dec.ny.gov



Alexander B. Grannis
Commissioner

August 19, 2010

Mr. Dennis Doyle
Ulster County Planning Board
Box 1800
244 Fair St.
Kingston, NY 12401

Dear Mr. Doyle:

Enclosed for your review and comment is the Federal Standard Form 424 "Application for Federal Assistance" as our request for intergovernmental review of the Federal Fiscal Year 2011 Clean Water State Revolving Fund Capitalization Grant application to the USEPA. Award of the proposed Federal Grant will enable the Department of Environmental Conservation to continue to capitalize the New York Clean Water State Revolving Fund. We are notifying Area-Wide Clearinghouses of our intent to apply for Federal aid for this program.

Please provide your response to the following address by September 17, 2010 and a copy to Mr. Timothy P. Burns, P.E., of the NYS Environmental Facilities Corporation, in the enclosed envelope:

Roch Baamonde, Chief
Grants & Contract Management Branch
USEPA Region 2
290 Broadway
New York, New York 10007-1866

To assist in your response you could complete the enclosed form, sign and return. Should you have any questions, please feel free to phone the Program Director, Mr. William A. Brizzell, P.E. at (518) 402-7396.

Sincerely,

Michael Giovannone
Associate Accountant

wb/th
Enclosures a/s

c: Mr. Timothy P. Burns, P.E - NYSEFC

**New York State Clean Water State Revolving Fund
Clearinghouse/Review Agency Response**

August 2010

This is in response to the intergovernmental review process regarding the 2011 Clean Water State Revolving Fund (CWSRF) Capitalization Grant application for the New York State to the USEPA.

- ☐ support the application
- ☐ support the application with attached comments
- ☐ comments attached

In addition please indicate if you wish to be contacted for future intergovernmental review of CWSRF Capitalization Grant application.

- ☐ We do NOT wish to be contacted for future intergovernmental reviews on this type of application in the future.
- ☐ YES, continue to include this clearinghouse in the intergovernmental review process.

(date)

Arlene Miller
Rockland County Department of Planning

REVIEWING AGENCIES

The Application Review Package has been sent to the Reviewing Agencies checked below:

- ☐ United States Environmental Protection Agency Region II, Grants and Contracts Management

AREAWIDE REVIEWING AGENCIES:

<input checked="" type="checkbox"/> ALBANY, RENNELAER, SCHENECTADY, SARATOGA	<input checked="" type="checkbox"/> GENESSE, LIVINGTON, MONROE, ONTARIO, ORLEANS, SENECA, WAYNE, YATES, WYOMING	<input checked="" type="checkbox"/> ULSTER
<input checked="" type="checkbox"/> BROOME, CHENANGO, CORTLAND, DELAWARE, OTSEGO, SCHOHARIE, TIOGA, TOMPKINS	<input checked="" type="checkbox"/> JEFFERSON	<input checked="" type="checkbox"/> WESTCHESTER
<input checked="" type="checkbox"/> CHAUTAUQUA, CATTARAUGUS, ALLEGANY	<input checked="" type="checkbox"/> ORANGE	<input type="checkbox"/> ALL COUNTIES
<input checked="" type="checkbox"/> CHEMUNG, SCHUYLER, STEUBEN	<input checked="" type="checkbox"/> OSWEGO, ONONDAGA, MADISON, CAYUGA	<input type="checkbox"/> NO APPLICABLE COUNTIES REVIEWING AGENCIES
<input checked="" type="checkbox"/> ERIE, NIAGARA	<input checked="" type="checkbox"/> PUTNAM	
<input checked="" type="checkbox"/> FRANKLIN	<input checked="" type="checkbox"/> ROCKLAND	

The undersigned certifies that an Application Review Package consisting of the items checked below has been sent to the required Reviewing Agencies for review.

- (1) **FEDERAL FORM 424 (Box 16 must be completed)**
- (2) **PROJECT SUMMARY DESCRIBING PROPOSED ACTIVITIES**
- (3) **CERTIFICATION OF DISTRIBUTION OF APPLICATION REVIEW PACKAGE**
- (4) **SITE LOCATION MAP (For construction projects only)**
- (5) **PROJECT INFORMATION FORM (For construction projects only)**

This Application Review Package will not be processed unless this form is signed and dated below.

Signature

Date signed

Title



LOBBYING AND LITIGATION CERTIFICATION FOR GRANTS AND COOPERATIVE AGREEMENTS*

INSTRUCTIONS:

*At project completion, complete this form pursuant to the 2001 Department of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Act, Public Law 106-377, Section 424 and 2000 Department of Veterans Affairs and Housing and Urban Development, and Independent Appropriations Act, Public Law 106-74, Section 426 and any other subsequent Appropriation Act requirements.

Please mail this form to your EPA Grant Specialist within 90 days of project completion. DO NOT send this information to the Office of Management & Budget.

Assistance Agreement Number(s):

66-458

I hereby certify that none of these funds have been used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

Nancy W. Lussier
Signature of the Chief Executive Officer

Date

SEP 29 2010

Nancy W. Lussier, Director, Management & Budget, NYSDEC

Print Name

Burden Statement - The annual public reporting and record keeping burden for this collection of information is estimated to average 5 minutes per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Regulatory Information Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Mail Code 3213A, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number and OMB control number in any correspondence.

METHOD OF PAYMENT

☒ Automated Standard Application for Payments (ASAP)

January 2011 or upon grant award

\$211,640,622

SOURCE OF STATE MATCH

NEW YORK STATE CLEAN WATER CAPITAL BUDGET

SFY	AMOUNT APPROPRIATED	CUMULATIVE
89-90 through 20-03	\$462,613,000	
03-04	\$30,174,000	\$492,787,000
04-05	\$28,893,000	\$521,680,000
05-06	\$29,602,000	\$551,282,000
06-07	\$29,600,000	\$580,882,000
07-08	\$29,600,000	\$610,482,000
08-09	\$29,600,000	\$640,082,000
09-10	\$29,600,000	\$669,682,000
10-11	<u>\$29,600,000</u>	\$699,282,000
	\$699,282,000	

REQUIRED STATE MATCH (@ 20%)

FFY	FEDERAL GRANT	STATE MATCH
89-90 through 20-03	\$2,309,586,281	\$461,917,255
03-04	\$146,280,420	\$29,256,084
04-05	\$118,939,293	\$23,787,859
05-06	\$96,656,373	\$19,331,275
06-07	\$118,135,611	\$23,627,122
07-08	\$75,108,221	\$15,021,644
08-09	\$75,109,023	\$15,021,805
09-10	\$224,898,000	\$44,979,600
10-11	\$211,640,622	\$42,328,124
"no year" CG funds	<u>\$82,429,437</u>	<u>\$16,485,887</u>
	\$3,458,783,281	\$691,756,655

SFY State fiscal year = April 1 to March 31

FFY Federal fiscal year = October 1 to September 30



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

BARBARA D. UNDERWOOD
SOLICITOR GENERAL

August 4, 2010

Alexander B. Grannis
Commissioner
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-1010

RE: State Revolving Fund Program
Attorney General's Certification

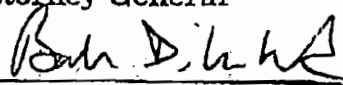
Dear Commissioner Grannis:

Reference is hereby made to the Attorney General's certification made with respect to the State Revolving Fund Program and contained in our letter of February 26, 1990 to your predecessor, Commissioner Jorling. Such letter is incorporated herein in full by this reference. As of the date hereof, and after review of such matters as members of my staff have deemed relevant, including amendments to the State's implementing legislation and the hereinafter referenced Attachment 8, the Attorney General recertifies the matters certified in paragraphs (1), (2) and (3) of the February 26, 1990 letter. With respect to the certification contained in paragraph (3) thereof, reference is also made to the letter dated July 16, 2010 from the General Counsel of the Department of Environmental Conservation (the "Department") and to Attachment 8, as amended to the date hereof, to the Operating Agreement for Implementing and Managing the New York State Water Pollution Control Revolving Fund, between the Department and EPA.

Very truly yours,

ANDREW M. CUOMO
Attorney General

By:


BARBARA D. UNDERWOOD
Solicitor General

CHECKLIST OF APPLICATION ITEMS TO BE SUBMITTED

After you have completed your application, narrative descriptions, and other required forms, please review this application checklist to ensure that all required documents have been completed for submittal.

- ☐ **Key Contact Form**
- ☒ **Application for Federal Assistance (SF-424) with Original Signatures (Including SF-424A Budget Information and Assurances for Non-Construction Programs SF-424B)**
- ☒ **Itemized Budget (Detailed)**
- ☒ **Assurances: Non-Construction Programs (SF-424 B)**
- ☒ **EPA Form 4700-4 Pre-Award Compliance Review Report for All Applicants Requesting Federal Financial Assistance (Civil Rights Form) - EEO Contact Mavis Johnson (212) 637-3339.**
- ☐ N/A **Narrative Statement / Workplan (Including statement on how this project supports your environmental program)**
- ☒ **Certification of Distribution of Application Review Package (Proof of compliance with Intergovernmental review)**
- ☐ N/A **Data on Past Grants Experience / Financial Administration (for applicants new to EPA REGION 2, e.g. Audit Reports, Narrative Description of Past Grants with the Federal Government, and the Federal Agency Contact for the Single Audit Requirement)**
- ☐ N/A **Biographical Sketch of the Project Manager (for applicants other than State, local government and Indian Tribes)**
- ☒ **Certification Regarding Lobbying / Disclosure of Lobbying Activities**
- ☐ N/A **Certification of Tax Status if you are a Non-Profit or Not-for-Profit Organization (for 501(c)(3) and (4) organizations, please attach copy of your most current IRS determination letter)**
- ☐ **Negotiated Indirect Cost Rate Agreement**
- ☒ **Include the Dun and Bradstreet (D&B) Data Universal Number System (DUNS) in the SF-424 Form**

CHECKLIST OF APPLICATION ITEMS TO BE SUBMITTED
(Continued)

☐ N/A

For other than continuing programs, please indicate below the appropriate status of your application package to assist us in facilitating the review process:

- ☐ Submitting application package in response to a competitive announcement
List announcement number _____ or Title _____
- ☐ Submitting in response to discussion with EPA Staff
Please identify name _____
- ☐ Submitting without input from or discussion with EPA, and not in response to a competitive announcement

☐ N/A

Congressional Earmarks:

- ☐ Submitting application package in response to a Congressional Earmark
(If known) Please identify name of Congressional Sponsor _____
(If known) Please identify the appropriation Bill in which the earmark appears _____

***NOTE:** Please note that the information contained in this application may be made available to the public unless you identify specific portions that are confidential and may not be released. Please clearly identify specific confidential business information contained in this application.

RETURN COMPLETED APPLICATION TO:

**MR. ROCH BAAMONDE, CHIEF
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 2
GRANTS AND CONTRACTS MANAGEMENT BRANCH
290 BROADWAY, 27th FLOOR
NEW YORK, NEW YORK 10007-1866**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 26 2010

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

MEMORANDUM

SUBJECT: Class Deviation from the Provisions of 40 CFR 35.2010(d)

FROM: Catherine Vass, Director *C. Vass*
National Policy, Training and Compliance Division (NPTCD)

TO: Donna Vizian
Assistant Regional Administrator for Policy and Management

I am responding to your request of July 20, 2010, for a deviation from provisions of EPA's general grant regulations concerning the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." Under the authority of 40 CFR 31.6(d), I am approving a class deviation from the provisions of 40 CFR 35.2010(d) for the Clean Water Act (CWA) Title II construction grants (CG) program. My approval will allow deobligated construction grant funds reissued on or after October 1, 1990, to remain available for obligation within the same State in Region 2 until September 30, 2011, in accordance with the requirements and conditions contained in this memorandum.

BACKGROUND

The Environmental Protection Agency (EPA) regulations at 40 CFR 35.2010(d) provide that deobligated construction grant funds reissued after their reallocation date shall be available for up to two years for obligation in the same State. The last Title II construction grant program allotment was for fiscal year (FY) 1990, and those funds were available for obligation through the end of FY 1991. Because of the regulatory two year limit of availability, the funds that were not obligated by a State by the end of FY 1991 would have been subject to reallocation and reissuance to those States that obligated their funds. However, a class deviation from the regulation at 40 CFR 35.2010(d) was approved on August 23, 1991, to extend the period of availability to September 30, 1995. Six continuations of the class deviation were approved on August 18, 1995, May 20, 1998, April 14, 2000, July 3, 2002, September 27, 2004 and July 8, 2008. The current class deviation expires on September 30, 2010.

As a result, \$74,993,847 in deobligated CG funds remains in reserve as a funding source for resolving ongoing CWA Title II Construction grants disputes. The primary purpose for

holding these unobligated funds is to allow for funding any meritorious request for grant increases to cover the Federal Share (75%) of eligible costs which may be reinstated as appeals are resolved. Unliquidated obligations totaling \$7,435,590 are also available for this purpose.

Although very substantial progress has been made in closing out the construction grants program, some projects will continue beyond the current September 30, 2010 expiration date. New York State and the Commonwealth of Puerto Rico will need the flexibility to manage deobligations beyond that date. The extension of the deviation will provide that flexibility. The extension will enable the State of New York to manage their remaining deobligated construction grant funds via a transfer of these funds to their State Revolving Fund Program as per Section 205(m) of the Clean Water Act of 1987. Deobligated construction grant funds are "no year" funds and remain available until expended to carry out the purpose of the appropriations. The funds can remain available for obligation in the same State for an indefinite period. Because these are "no year" funds, and because there are active construction grant projects, the extension of the class deviation is warranted. In order to safeguard the funds, the Governor of New York State has submitted a letter requesting transfer of the funds into the New York State Title VI Clean Water State Revolving Fund (CWSRF) as soon as possible. However, as per CWA Section 205(m), the funds cannot be transferred until FY 2011 (October 1, 2010). This deviation is necessary so that the funds will not expire on September 30, 2010. The balance of the funds, summary attached, will be transferred into NY State Title VI CWSRF on or shortly after October 1, 2010.

Region 2, the Office of General Counsel and the Office of Water recommend this deviation. I am approving this deviation as requested. This will grant an extension of these no year funds until September 30, 2011.

cc:

Howard Corcoran

Ellen O'Boyle

SUMMARY OF ONGOING CONSTRUCTION GRANTS PROJECTS IN REGION 2

SUMMARY TABLE

NASSAU COUNTY Reviews Pending at Region 2

<u>Project Description/Grant Number(s)</u>	<u>Disputed Amount</u>	<u>Unliquidated Obligation in Grant</u>
C361139-03 Cedar Creek WWTP Upgrade/Expansion	\$11,500,000	\$0
C360891-05 Bay Park WWTP Upgrade/Expansion (Design)	1,000,000	0
C360891-12 Bay Park WWTP Upgrade/Expansion (Construction)	16,300,000	0
C360982-01, 02, 04, 05, 06, 08 Lateral and Trunk Sewers	28,268,000	3,187,233
	<u>\$57,068,000</u>	<u>\$3,187,233</u>

Discretionary Review Pending at EPA Headquarters

C360361-01 Construction of Cedar Creek WWTP, Interceptor Sewers, Pump Stations, Force Mains, Outfall	\$6,194,950	\$1,989,128
C360628-01 Construction of Interceptor Sewers in Sewer District No. 3	10,449,739	2,220,799

C360666-05
Village of Roslyn
Pump Station

646,095

38,430

\$17,290,784

\$4,248,357

TOWN OF AMHERST
Deviation Reviews Pending at Region 2

<u>Project Description/Grant Number(s)</u>	<u>Disputed Amount</u>	<u>Unliquidated Obligation in Grant</u>
C360618-02 Relief Sewers	\$ 723,000	\$0

Deviation Reviews Pending at EPA Headquarters

C360618-01 WWTP Modifications and Interceptor Sewers	\$ 450,000	\$632,800
C360618-03 WWTP Upgrades	<u>3,250,000</u> \$78,781,784	<u>0</u> \$7,435,590

ADDITIONAL ITEMS SENT UNDER SEPARATE COVER

FFY 2011 Intended Use Plan (IUP)

To be forwarded under separate cover

Operating Agreement

No changes are proposed for the current approved Operating Agreement effective through December 31, 2014

MBE/WBE Utilization under Federal Grants, etc.

Submitted under separate cover quarterly as required

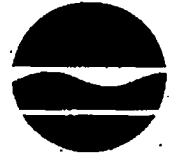
New York State Department of Environmental Conservation

Division of Management & Budget Services, 10th Floor

625 Broadway, Albany, New York 12233-5010

Phone: (518) 402-9228 • Fax: (518) 402-9023

Website: www.dec.ny.gov



Peter M. Iwanowicz
Acting Commissioner

*Copies to
Rudy &
Mark*

December 2, 2010

Mr. Roch C. Baamonde, Chief
Grants and Contracts Management Branch
U.S. Environmental Protection Agency
Region II
290 Broadway, 29th Floor
New York, NY 10007-1866

ENVIRONMENTAL PROTECTION
AGENCY REGION II
2010 DEC -9 PM 2:17
GRANTS & CONTRACTS
MANAGEMENT

Dear Mr. Baamonde,

Attached for your information and review is our required submittal of Civil Rights form 4700-4, "Preaward Compliance Review Report for All Applicants Requesting Federal Financial Assistance". This submittal is intended to cover each one of the Department grants, for all monetary actions occurring on or after October 1, 2010.

We have made every effort to obtain answers to each of the questions in the form. However, we are not able to provide you with answers to question number VII. These grants are generally used to support Department programs that serve all of New York State, rather than a single specific geographic location and/or population. Consequently, questions that deal with a specific community or population are impossible to answer because the Department lacks access to that type of information on a statewide basis.

If you need any additional information on this matter, please contact Michael Giovannone by phone at (518) 402-9376 or e-mail at mxgiovannone@dec.state.ny.us.

Sincerely,

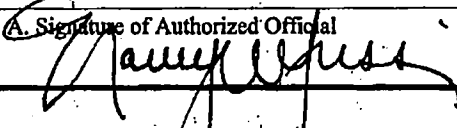
Nancy W. Lussier
Director, Management & Budget Services

Enclosure

**United States Environmental Protection Agency
Washington, DC 20460**

**Preaward Compliance Review Report for
All Applicants and Recipients Requesting EPA Financial Assistance**

Note: Read instructions on other side before completing form.

I. Applicant/Recipient (Name, Address, State, Zip Code). New York State Department of Environmental Conservation, 625 Broadway, Albany New York 12233		EPA Project No.
II. Is the applicant currently receiving EPA assistance? (See * instructions on reverse side) Yes		
III. List all civil rights lawsuits and administrative complaints pending against the applicant/recipient that allege discrimination based on race, color, national origin, sex, age, or disability. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.) Four (4) cases pending. No determination at this time.		
IV. List all civil rights lawsuits and administrative complaints decided against the applicant/recipient within the last year that allege discrimination based on race, color, national origin, sex, age, or disability and enclose a copy of all decisions. Please describe all corrective action taken. (Do not include employment complaints not covered by 40 C.F.R. Parts 5 and 7. See instructions on reverse side.) None		
V. List all civil rights compliance reviews of the applicant/recipient conducted by any agency within the last two years and enclose a copy of the review and any decisions, orders, or agreements based on the review. Please describe any corrective action taken. (40 C.F.R. § 7.80(c)(3)) None		
VI.* Does the applicant/recipient provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, sex, age, or disability in its programs or activities? (40 C.F.R. § 5.140 and § 7.95) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No a. Do the methods of notice accommodate those with impaired vision or hearing? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No b. Is the notice posted in a prominent place in the applicant's offices or facilities or, for education programs and activities, in appropriate periodicals and other written communications? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No c. Does the notice identify a designated civil rights coordinator? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
VII.* Does the applicant/recipient maintain demographic data on the race, color, national origin, sex, age, or handicap of the population it serves? N/A		
VIII.* Does the applicant/recipient have a policy/procedure for providing access to services for persons with limited English proficiency? YES		
IX.* If the applicant/recipient is an education program or activity, or has 15 or more employees, has it designated an employee to coordinate its compliance with 40 C.F.R. Parts 5 and 7? Provide the name, title, position, mailing address, e-mail address, fax number, and telephone number of the designated coordinator. Juan Abadla (Director Bureau of Affirmative Action & Minority/Women's Business Programs 625 Broadway (10th floor) Albany, New York 12333-5064		
X* If the applicant/recipient is an education program or activity, or has 15 or more employees, has it adopted grievance procedures that assure the prompt and fair resolution of complaints that allege a violation of 40 C.F.R. Parts 5 and 7? Provide a legal citation or Internet address for, or a copy of, the procedures. CP-41/ Nondiscrimination in the Workplace (DEC Policy) http://internal.dec.state.ny.us/mbs/mbs68.html		
XI. Will all new facilities or alterations to existing facilities be designed and constructed to be readily accessible to and usable by persons with disabilities? <input checked="" type="checkbox"/> Yes. If no, explain how a regulatory exception (40 C.F.R. § 7.70) applies. <input type="checkbox"/> No		
<p align="center">For the Applicant/Recipient</p> <p>I certify that the statements I have made on this form and all attachments thereto are true, accurate and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law. I assure that I will fully comply with all applicable civil rights statutes and EPA regulations.</p>		
A. Signature of Authorized Official 	B. Title of Authorized Official Director, Management & Budget Services	C. Date 12/2/10
<p align="center">For the U.S. Environmental Protection Agency</p> <p>I have reviewed the information provided by the applicant/recipient and hereby certify that the applicant/recipient has submitted all information required by 40 C.F.R. Parts 5 and 7; that based on the information submitted, this application satisfies 40 C.F.R. Parts 5 and 7; and that the applicant has given assurance that it will fully comply with all applicable civil rights statutes and EPA regulations.</p>		
A. Signature of Authorized EPA Official	B. Title of Authorized EPA Official	C. Date



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 2 2011

THE ADMINISTRATOR

The Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, New York 12224

Dear Governor Cuomo:

This nation's water infrastructure not only protects water quality and human health, but contributes to economic vitality and quality of life. Our longstanding partnership under the Clean Water and Drinking Water State Revolving Fund programs (SRFs) has enabled us to address the largest water quality and public health threats while creating jobs and renewing communities. The US Environmental Protection Agency is interested in working with you to increase the pace of expenditures under the SRFs. To that end, I'd like to offer some ideas for your consideration.

First, however, I want to acknowledge the effort your state has made in working with your water and wastewater systems to implement the American Recovery and Reinvestment Act (ARRA). ARRA funds created jobs through expeditious implementation of SRF projects that make a difference in the health and vitality of communities. Most of the nearly \$6 billion made available to state SRFs through ARRA has been put to work.

Over the last three years, in addition to ARRA, the States and Territories have received over \$7 billion in Clean Water and Drinking Water SRF program resources. Our collective priority has been and remains moving this continuing flow of funds as quickly as possible to carry out projects on the ground, putting Americans back to work and delivering improved environmental and public health protection. We are making noteworthy progress. Within 6 months of enactment of the full Federal Fiscal Year 2011 appropriation, we have obligated 78 percent of those funds; I believe we can do better.

We appreciate the strong partnership we enjoy with New York's program. Your staff members have offered many helpful insights regarding what we at the EPA can do to help facilitate the expeditious movement of the SRF funds. I have directed staff to give priority to the review and award of SRF capitalization grants and to streamline and simplify processes where possible on our end. Steps that you can take to expedite the flow of SRF dollars into your State's economy include:

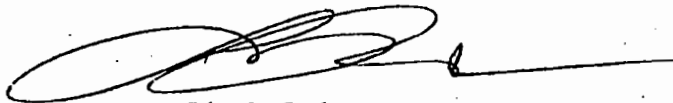
- Submitting SRF capitalization grant applications as soon as possible.
 - I want to thank you for successfully submitting your Drinking Water and Clean Water SRF grant applications for FY2011.
 - If you have not already, I encourage you to submit draft Intended Use Plans (IUPs) for FY2012 funding for both SRFs based on your State's allocations under the President's Budget, so that my staff can begin reviewing them early. Applications can be submitted with final IUPs following the final FY2012 appropriation, but early review will expedite grant award.

- Awarding assistance agreements as soon as money becomes available to the State.
 - I encourage you to award assistance agreements to projects being funded through repayments, interest earnings, fees, or State match as soon as those funds become available to the State.
 - I also recommend that you draft assistance agreements for projects being funded through federal capitalization so that they are ready to be signed upon award of the capitalization grant.
 - Finally, I request that you work closely with your communities to build a pipeline of projects that are ready to proceed, so that contracts can be awarded and construction can begin upon the award of assistance agreements.

I am requesting your personal involvement in ensuring that your State moves quickly to apply for and receive its capitalization grants each year and moves quickly to award assistance to local projects consistent with legislative authorities, regulations, and program guidelines. Your efforts in this regard will result in job creation benefits as well as providing important water and wastewater infrastructure that will support the long-term prosperity and well-being of communities in your State.

Please contact me if there are any issues I can help you resolve, and I will have my Regional Administrator follow up with your SRF agencies.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', with a long horizontal line extending to the right.

Lisa P. Jackson